

## MINUTES

Town of Smyrna  
Council Meeting  
Bi-Monthly Meeting  
Monday, August 7, 2023, 6:45 pm - 8:00 pm  
Hybrid

### 1. 6:45 PM - Public Hearing

a. An application from SBCL Properties, LLC to rezone 25-acres of vacant land on 52 parcels to be re-subdivided from R-1A Residential to PVC – Planned Village Community to comply with the 2020 Comprehensive Plan. The property is located at 1181 Duck Creek Road (TM 28-004.40-126 through 28-004.40-177).

b. A Concept Major Re-Subdivision from SBCL Smyrna Properties, LLC to re-subdivide an existing 47-lot residential subdivision on 25 acres into 81 lots to accommodate 49 proposed single-family dwellings and 32 townhouse dwellings and accompanying streets, parking areas, and open spaces and recreational amenities. The property is located at 1181 Duck Creek Road (TM 28-004.40-126 through 28-004.40-177) and is currently zoned R-1A Residential.

c. An Ordinance amending the Town Code of the Town of Smyrna to Clarify the Standards for Waste Container Enclosures. This ordinance clarifies what structures and materials qualify as waste container enclosures. This ordinance exempts waste container enclosures from permitting requirements and allows waste container enclosures to be placed up to 4 feet into the front, side, and rear yard setbacks.

### 2. 7:00 PM - Regular Meeting

Called to order by Vice Mayor Rasmussen at 7:00 PM

3. Pledge of Allegiance/Moment of Silence - Led by Vice Mayor Rasmussen

4. Roll call - Councilman Rasmussen, Councilman Pressley, Councilman Brown, Councilwoman Forbes, Councilwoman Gott and Councilwoman Upshur, Mayor Johnson - virtual.

5. Additions/deletions to published agenda

Remove 9B and 9C

A motion was made by Councilwoman Gott to approves the agenda as presented. Motion was seconded by Councilman Brown and carried unanimously.

6. Consent agenda:

- a. Council Minutes of 07/17/2023
- b. Executive Session Minutes of 07/17/2023
- c. Police Department Monthly Report

Councilwoman Upshur made the motion to approve the consent agenda as presented. Motion was seconded by Councilwoman Gott and carried unanimously.

- a. Council minutes of 07/17/2023

Councilwoman Upshur made the motion to approve the consent agenda as presented. Motion was seconded by Councilwoman Gott and carried unanimously.

- b. Executive session minutes of 07/17/2023

Councilwoman Upshur made the motion to approve the consent agenda as presented. Motion was seconded by Councilwoman Gott and carried unanimously.

- c. Police Department monthly report

Councilwoman Upshur made the motion to approve the consent agenda as presented. Motion was seconded by Councilwoman Gott and carried unanimously.

## 7. Non-agenda Items:

Councilman Brown - concerns about paving in Lake Como Woods.

- a. Mayor & Council Members

Councilman Brown - concerned about paving in Lake Como Woods.

Councilwoman Upshur - Has nothing.

Councilman Pressley - Has nothing.

Councilwoman Forbes - 8/9 Shade Tree Meeting

Councilwoman Gott - 8/27 Ministerium Prayer night at any public school in Smyrna, 1st day of school is 9/5, 9/16 event at the Clayton Fire Department, 10/14 is the 5k run for Smyrna Elementary School. Can be run in costume. 10/21 Monster Mile for a Cure at Homestead Gardens and proceeds go to Breast Cancer research. 11/4 Autumn in Duck Creek, 11/14 Veterans Day in Town. Library story time every Friday, Soccer League has sign ups now, ages 3-12. Thanked Jason for Locust Street.

Vice Mayor Rasmussen - Has nothing.

Mayor Johnson - Has nothing

b. Police Chief

Huge increase in accidents on Rt. 13

c. Town Manager

County sewer rate increase - published in the Smyrna/Clayton Sun Times 8/2, 8/9, running on Delaware online in zip code 19977 8/7 to 8/15, post cards going out on 8/8 from Infosend, on Tidbits 2 times and on website in several locations now. Landscapers have been paid.

8. Old business, including Discussions & Possible Action on the following items:

None.

9. New Business, Including Discussion & Possible Action on the following Items:

a. Terms of Office for the Shade Tree Commission

Mayor Johnson made the motion to approve the Terms of the Shade Tree Commission as presented. Motion was seconded by Councilman Brown and carried unanimously.

b. Reappointment of Valerie Forbes to the Shade Tree Commission

Removed

c. Reappointment of Michael Turner to the Shade Tree Commission

Removed

d. Discussion and potential purchase of electric franchise on eleven parcels

Holding off on motion at this meeting. Jeremy, Jason and Josh spoke about the electric franchise.

e. Autumn in Duck Creek

Councilwoman Gott spoke about Autumn in Duck Creek 11/4, including home tours, Smyrna Museum, Fire Dept. open house, Ministerium will have Chicken Salad, Cake Walk and tour of churches, Family Fun Day from 10 to 2, 4 hr. car show including the Corvette Club, Jeep Club, antique tractors. Set up with no road closures.

Ghost Hunters will be in town on 11/3, ghost tours. Event is self-financed by the Main Street Coordinating Board Grant Fund.

A permit would be needed to proceed.

Councilwoman Gott made the motion to approve Autumn at Duck Creek on 11/3 and 11/4 as presented. Motion was seconded by Councilwoman Forbes and carried unanimously.

f. An application from SBCL Properties, LLC to rezone 25-acres of vacant land on 52 parcels to be re-subdivided from R-1A Residential to PVC – Planned Village Community to comply with the 2020 Comprehensive Plan. The property is located at 1181 Duck Creek Road (TM 28-004.40-126 through 28-004.40-177).

Jeremy Rothwell spoke about the rezoning. It is comprehensive at this time and no work will commence.

Roll Call Vote:

Gott - Yes in accordance with comprehensive plan

Forbes - No

Upshur - Yes in accordance with comprehensive plan

Pressley - Yes in accordance with comprehensive plan

Brown - Yes in accordance with comprehensive plan

Rasmussen - Yes in accordance with comprehensive plan

Johnson - Yes in accordance with comprehensive plan

g. A Concept Major Re-Subdivision from SBCL Smyrna Properties, LLC to re-subdivide an existing 47-lot residential subdivision on 25 acres into 81 lots to accommodate 49 proposed single-family dwellings and 32 townhouse dwellings and accompanying streets, parking areas, and open spaces and recreational amenities. The property is located at 1181 Duck Creek Road (TM 28-004.40-126 through 28-004.40-177) and is currently zoned R-1A Residential.

Jeremy Rothwell spoke about the re-subdivision for SBCL Smyrna Properties, LLC.

Owner of SBCL Smyrna Properties, LLC spoke about his recommendations from the DNREC.

h. An Ordinance amending the Town Code of the Town of Smyrna to Clarify the Standards for Waste Container Enclosures. This ordinance clarifies what structures and materials qualify as waste container enclosures. This ordinance exempts waste container enclosures from permitting requirements and allows waste container enclosures to be placed up to 4 feet into the front, side, and rear yard setbacks.

Councilwoman Forbes made the motion to approve the third reading of the ordinance #009-23 as presented. Motion was seconded by Councilman Pressley and carried unanimously.

#### 10. Presentation and public comments (3 minutes)

Mr. Strozeski: Wanted to know who Electrical Impact Fees are paid to and he suggests after the purchase of substation parcels and immediately start building the substation because possible over building.

Mrs. Strozeski: Has this Town gone from soup to nuts with the developer in the past. Jeremy stated he has not. She is concerned that work will not get completed because the Town has no experience with this specific builder. Town Manager let her know staff is very aware of the issues of the past so they can be prevented and hold developers accountable.

George Coates: He said it was great to hear of development moving north on RT 13. His concern was the infrastructure being able to support the growth.

Lawrence Catalino: Week before last a storm knocked down a tree and he thanked PW for their efforts to clear the tree from the road outside his development. He has concerns about the water meter charges and wants to get rid of it.

Robert James: Questions why the Town would want to get involved in supplying the Towns own electric given the EPA regulations? He's concerned about overloading the system and having to increase taxes to further fund the electric department.

#### 11. Other Council Business

None

#### 12. Executive session to discuss the potential acquisition of real property. 29 Del. C. Sec. 10004(b)(2)

Councilwoman Upshur made the motion to go into executive session as presented. Motion was seconded by Councilwoman Forbes and carried unanimously.

#### 13. Possible action on matters discussed in executive session regarding the potential acquisition of real property

#### 14. Executive session to discuss personnel matters in which the names, competency, and abilities of individual employees will be discussed. 29 Del. C. § 10004(b)(9)

Councilwoman Upshur made the motion to go into executive session as presented. Motion was seconded by Councilwoman Forbes and carried unanimously.

#### 15. Discussion and possible action on personnel matters discussed in executive session

16. Executive session to hold a strategy session with respect to collective bargaining with a labor union. 29 Del.C Sec. 10004(b)(4)

Councilwoman Upshur made the motion to go into executive session as presented. Motion was seconded by Councilwoman Forbes and carried unanimously.

17. Discussion and possible action on matter discussed in executive session regarding collective bargaining

18. Executive session to hold a strategy session involving legal advice or an opinion from an attorney-at-law, with respect to pending or potential litigation 29 Del. C. § 10004(b)(4)

Councilwoman Upshur made the motion to go into executive session as presented. Motion was seconded by Councilwoman Forbes and carried unanimously.

19. Discussion and potential action on matters discussed in executive session involving pending or potential litigation

Councilwoman Gott made the motion to come out of executive session as presented. Motion was seconded by Councilwoman Forbes and carried unanimously.  
9:51 PM

20. Adjournment

Councilwoman Upshur made the motion to adjourn as presented. Motion was seconded by Councilwoman Gott and carried unanimously.  
9:52 PM